

# PRISON POPULATION

A Report Prepared for the  
Legislative Finance Committee

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## PURPOSE

The purpose of this report is to update the Legislative Finance Committee (LFC) regarding the rising population of offenders held in the secure care segments of Montana's prison system, possible budgetary implications, the proposals approved by the legislature as part of the 2007 biennium budget for the department, and actions the Department of Corrections (DOC) has under consideration to house this rising number of offenders.

## BUDGETARY IMPLICATIONS

Cost over-runs and supplemental appropriations are not new to the correctional system. The legislature approved a supplemental appropriation for the DOC of \$4.4 million for FY 2005. This supplemental need was in part because average daily population (ADP) was greater than the level budgeted. Early indications are that the ADP and related expenditures to house offenders may once again exceed appropriation levels in the 2007 biennium.

The following figure (Figure 1) summarizes FY 2004 and 2005 actual and FY 2006 and 2007 appropriations, ADP, and calculates a simple average of the costs per day per offender in each of four facility groups (contract beds, Montana State Prison, Montana Women's Prison and pre-release centers). For example, the figure illustrates that the FY 2006 appropriation (\$17.8 million) for contract beds is lower than the actual expenditures (\$19.9 million) for contract beds in FY 2005 as is the ADP that was estimated during the

Figure 1 Department of Corrections Summary of Selected Actual and Appropriated Funds and Average Daily Population					
Item	FY 2004 Base Budget	FY2005 Actual	FY 2006 Appropriation	FY 2007 Appropriation	Comments
Contract Beds	\$17,455,565	\$19,940,305	\$17,795,772	\$20,736,558	2007 Biennium expansion dollars offset by transfer of funds to juvenile intervention. Department developing/reviewing creation of 256 special needs beds and 120 meth treatment beds
Ave. Daily Population	949	1,052	1,001	1,123	
Average Annual Costs Per ADP	\$18,394	\$18,955	\$17,778	\$18,465	
Average Daily Costs	\$50	\$52	\$49	\$51	
Amt. Sept Estimate Exceeds Approp			197	192	
Potential Costs Over Run Due to Increased ADP			\$3,502,265	\$3,545,342	
Montana State Prison	\$30,994,072	\$32,881,686	\$35,050,953	\$35,989,691	2007 Biennium add 85 bed revocation center Increase operating capacity from 1,407 to 1,492 Department developing/reviewing creation of overflow beds and potential use of Warm Springs facility for revocation center
Ave. Daily Population	1,325	1,430	1,525	1,525	
Average Annual Costs Per ADP	\$23,392	\$22,994	\$22,984	\$23,600	
Average Daily Costs	\$64	\$63	\$63	\$65	
Amt. Sept Estimate Exceeds Approp			(27)	0	
Potential Costs Over Run Due to Increased ADP			(\$620,574)	\$0	
Montana Women's Prison	\$4,311,989	\$4,603,445	\$4,490,116	\$4,630,236	Department developing/reviewing temporary bed expansion of 40 beds, addition of female beds to private prison, and potential for work release program
Ave. Daily Population	177	203	217	201	
Average Annual Costs Per ADP	\$24,362	\$22,677	\$20,692	\$23,036	
Average Daily Costs	\$67	\$62	\$57	\$63	
Amt. Sept Estimate Exceeds Approp			8	24	
Potential Costs Over Run Due to Increased ADP			\$165,534	\$552,864	
Pre-release (combined)	\$10,570,252	\$11,819,583	\$14,003,524	\$16,903,094	2007 Biennium expand pre-release beds, new facility under construction in Bozeman. Department indicates plan to expand capacity by 240 beds
Ave. Daily Population	773	833	930	1,075	
Average Annual Costs Per ADP	\$13,674	\$14,189	\$15,058	\$15,724	
Average Daily Costs	\$37	\$39	\$41	\$43	
Amt. Sept Estimate Exceeds Approp			(4)	103	
Potential Costs Over Run Due to Increased ADP			(\$60,230)	\$1,619,552	
Potential Cost Over Run Combined			\$2,986,995	\$5,717,758	Does not include additional probation and parole or enhanced supervision costs.
Total Potential Cost Over Run 2007 Biennium				\$8,704,753	

legislative session for the same time period.<sup>1</sup> The figure also calculates that the average costs per day per person for a contract bed is about \$50. When this average cost per day is multiplied by the difference in the ADP in the department's current estimate verses the appropriation estimate, the projected costs over-run for contract beds is about \$3.5 million each year of the 2007 biennium.

Using this method to estimate cost, increases in pre-release ADP would add another \$1.5 million for the biennium, with a biennial estimate of additional costs for these four segments of the system totaling \$8.7 million. Applying this methodology to MSP and MWP is more problematic, as the costs per day is an average and may not reflect the actual cost of housing an additional offender. It is likely that these costs would be lower than estimated because of economies of scale available within the institutions, the inclusion of a revocation center in the budget, and because contract bed cost per day is currently less than the average costs per day at the state owned institutions. Additionally, this methodology does not attempt to estimate increased costs associated with recruitment and retention of staff or the impact of energy price increases.

Any cost over-run experienced by the department would need to be funded by a combination of reductions in expenditures in other areas of the department, use of less costly alternatives to house offenders, and/or a supplemental appropriation.

## PRISON POPULATION

Figure 2 compares actual and estimated ADP for four components of Montana's prison system, contract beds, Montana State Prison (MSP), Montana Women's prison (MWP), and pre-release centers. For example, the figure illustrates that for FY 2007 for contract beds the executive budget request estimated the ADP would be 1,412, the budget approved by the legislature estimated an ADP of 1,123, and the department's current (September, 2005) estimate of ADP is 1,315 or almost 200 more offenders than used in the development of the legislative budget for FY 2007. This figure also illustrates that the department's current projection estimates that the adult offender population for FY 2006 and 2007 will be 3 and 4 percent, respectively, greater than the ADP estimate supported by the 2007 biennium budget.

Figure 2 Department of Corrections Average Daily Population - Adults							Percent Incr. Approp v. Sept. Est.
Fiscal Year	Item	Contract	MSP	MWP	Pre-release	Total Adult	
2004	Actual	949	1,325	177	773	10,353	
2005	Budget Request - 2007 Biennium	1,023	1,380	205	822	10,809	
	Estimated During Session	984	1,429	205	812	10,808	
	Actual	1,052	1,430	203	833	10,940	1%
2006	Budget Request - 2007 Biennium	1,161	1,380	205	916	11,288	
	Appropriation	1,001	1,525	217	930	11,289	
	September 2005 Estimate	1,198	1,498	225	926	11,596	3%
	Difference Sept. Est. less Approp.	197	(27)	8	(4)	307	
2007	Budget Request - 2007 Biennium	1,412	1,380	205	916	11,796	
	Appropriation	1,123	1,525	201	1,075	11,795	
	September 2005 Estimate	1,315	1,525	225	1,178	12,292	4%
	Difference Sept. Est. less Approp.	192	0	24	103	497	

<sup>1</sup> This is likely due to a combination of factors including: FY 2005 expenditures being greater than anticipated, and increases in funding made by the legislature for the 2007 biennium that were offset by a transfer of funds to juvenile intervention programs.

The legislature during its consideration of the 2007 biennium budget anticipated increases in secure care populations ranging from about 6 percent for males to almost 14 percent for females, with the overall system (including probation and parole and intensive supervision) increasing by about 4.5 percent per year. The most recent adult population estimates prepared by the department anticipate increases in the male population of more than 7 percent per year, female population of more than 25 percent per year, and overall system growth of 6 percent per year in the 2007 biennium.

While increases in ADP were anticipated during the 2007 biennium budget process, the rate of increase currently anticipated by the department is larger than budgeted and seems to be occurring more quickly than the department has been able to implement new facility and service options approved by the legislature. Also, of concern is that some institutions currently have an ADP at or above operational and/or emergency capacity, which has the potential to impact programming and raises concerns regarding safety and security.

## **LEGISLATIVE ACTION**

The legislative budget for the 2007 biennium included several actions related to the rising secure care population. The legislature did not approve of the department's proposal to add (build) secure care beds at the private prison. However, the legislature did approve:

- Use of all beds at the private prison as allowable under the current contract including 88 beds occupied by offenders under the jurisdiction of the U.S. Marshall
- Use of all available beds at the county-managed regional prisons as allowed under current contracts
- Use of 256 additional contract beds to serve "special needs" offenders
- Renovation of the previous intake and reception center located at MSP into a 85 bed revocation center (effective July 1, 2005)
- Additional pre-release beds
- Additional probation and parole staff

## **DEPARTMENT ACTION**

The department is currently considering a number of actions to address housing of the larger than anticipated increase in the secure care population. With regard to the items approved by the legislature as part of the 2007 biennium budget:

- The population of offenders housed in the private prison under the jurisdiction of the U.S. Marshall has decreased to about 50
- The ADP of offenders housed in county jails and regional prisons was 548 males and 48 females through August 2005
- Two requests for proposals, one for 256 "special needs" beds and one for 120 methamphetamine treatment beds, are to be issued on or about December 1, 2005
- Conversion of the previous intake and reception center at MSP to an 85 bed revocation center will not be implemented. Rather, department plans to use facilities on the Warm Springs campus as a revocation center and the previous intake and reception center as an "overflow" area
- Some pre-release beds are under development. Notably a 20 bed facility in Bozeman is under construction with a target opening date of mid-October, 2005

The department is also considering other options including:

- Housing some offenders in out-of-state facilities on a short-term basis (perhaps for 18 – 24 months) pending availability of additional beds in state

- Expansion of the private prison. Corrections Corporation of American (CCA) is negotiating with the department and the U. S. Marshall regarding the addition of 97 beds for use by the U.S. Marshall and 191 for use by Montana (111 for males and 80 beds for females). This action would potentially expand the bed capacity of Montana's system by a total of 243 beds because the state would likely have access to the 52 beds currently used by the U. S. Marshall<sup>2</sup>. Additionally, CCA is a potential bidder in response to the departments RFP for the development of 256 "special needs" beds. Thus, there is the possibility of the CCA facility being expanded by 544 beds
- Temporary expansion to add 40 beds at MWP
- Temporary housing in living areas at MSP
- Additional enhanced supervision program options
- Review of offenders within one year of discharge or parole
- Work-release program and/or other options for housing female offenders

## SUMMARY

While the legislature anticipated an increase in the secure care population, it appears that the rate of increase that occurred between FY 2004 and 2005 and is currently projected for future years is greater than that anticipated by the legislature and could lead to a supplemental budget request for FY 2007.<sup>3</sup> This larger than anticipated increase coupled with limited bed availability on a near term basis may result in the department contracting with and placing Montana offenders outside of the state. Additionally, the rate of growth in the secure care population may outpace the growth in planned secure care beds. While the department is taking steps to respond to the situation, some of those steps such as increasing the number of beds at the existing private prison, may not be consistent with actions supported by the legislature and incorporated in the 2007 biennium budget. The Legislative Finance Committee may wish to express its desires and preferences for actions to be taken in response to this situation and provide direction to legislative staff regarding areas of interest that the LFC would like staff to monitor. Legislative Fiscal Division staff will continue to monitor the secure care population and budget status of the department.

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<sup>2</sup> The expansion would be 208 male beds with 97 of those beds being used by the U.S. Marshall "freeing up" the 52 beds currently utilized by the U.S. Marshall. Thus, Montana would gain 163 male beds (208-97+52) and 80 female beds.

<sup>3</sup> The legislature provided a biennial appropriation for secure facilities. Thus, any funding shortage that occurs will likely occur in the second year of the biennium.